

**SUPPRESSED**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

**FILED**

MAR - 9 2016

U.S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MALACHI DUNCAN, a/k/a Demarcus Brewster,  
and  
DEMARCUS BREWSTER,

Defendants.

No.

**4:16CR108 JAR/JMB**

**INDICTMENT**

**COUNT ONE**

(Conspiracy to Defraud)

The Grand Jury charges that:

At all times relevant to the Indictment:

**A. Introduction**

1. The United States Department of Education (hereafter "DOE") is a federal executive department of the United States government with the primary responsibility of administering various educational financial assistance programs including the administration of Title IV of the Federal Higher Education Act of 1965, as amended (Title 20, U.S.C., Sections 1070-1090(c)(2) (hereinafter "Title IV").

2. Among the educational financial assistance programs administered by the DOE are federally sponsored loan programs which require repayment of the educational loans awarded. There are several types of loans including Stafford Loans for undergraduate or graduate and professional students. A Stafford Loan, also known as a Direct Loan, is a loan in which the DOE is a lender. A subsidized Stafford Loan is for students with a financial need. DOE pays the interest

while the student is in school. An unsubsidized loan is not need based. The student pays interest during all periods with an unsubsidized loan.

3. To start the financial aid process, a student is required to complete a Free Application for Federal Student Aid (hereinafter "FAFSA") and submit the completed form online to the federal government at [fafsa.gov](http://fafsa.gov). Among the information required on the FAFSA is the student's name, Social Security number (hereinafter "SSN"), and various financial data. The students are also required to certify that the information provided in the FAFSA is true and correct and that any federal student financial aid funds received will be used for educational expenses only. The FAFSA includes written notice that a false statement or misrepresentation on the application is punishable as a crime. Once submitted, the submitted application is received by the Central Processing System (hereinafter "CPS"). The CPS calculates the FAFSA application information submitted by the student to produce the Estimated Family Contribution (hereinafter "EFC"). This information is then electronically transmitted as an Institutional Student Information Record (hereinafter "ISIR") to schools designated by the applicant in the FAFSA. The information is also sent to the applicant either electronically or through the mail as a Student Aid Report (hereinafter "SAR"). The SAR directs the applicant to review the SAR to verify the accuracy of the information and correct any errors contained therein. The student's school then uses this information plus the total cost of attendance to determine the type and amount of federal student financial aid for which the student qualifies. The school then certifies the applicant's eligibility, enrollment status, recommended loan amounts and other information and submits the application to the private lender and/or the DOE for approval. Once approved, student financial aid funds are distributed.

4. Federal program loans are funded by private lenders and guaranteed by the DOE, by state or private non-profit guarantee agencies insured by the DOE, or directly by the DOE. To ensure that the financial aid funds are used for educational purposes, the financial assistance funds are sent from the private lender directly to the school in the form of an electronic funds transfer. The

school deposits the funds into its operating account to cover the student's outstanding tuition bills and other school fees. Any funds in excess of these required school expenses are forwarded to the student applicant to be used for other authorized education related expenses including books, supplies, housing, and subsistence.

5. "Pell Grants" are need-based grants to low-income undergraduate students who have not received their first bachelor's degree. A federal Pell Grant does not have to be repaid. A student can only receive one Pell Grant at a time with a maximum of twelve grants awarded. Eligibility is determined by the information provided on the FAFSA.

6. "Higher One" is an online financial management company that provides banking services and student loan refund management disbursement service to students and schools.

7. "Jefferson College" is a junior college with three campuses located in the Eastern District of Missouri. Jefferson College's main campus is located in Hillsboro, Missouri. Jefferson College uses online and traditional classroom formats to deliver instruction. Jefferson College was and is authorized by Title IV of the Higher Education Act of 1965 to administer federal financial aid programs to the school's students.

8. Federally funded student loans are delivered to Jefferson College via electronic funds transfers.

**B. Conspiracy**

9. From on or about January 1, 2010 until about February 18, 2016, the exact dates being unknown to the Grand Jury, within the Eastern District of Missouri and elsewhere,

**MALACHI DUNCAN, a/k/a Demarcus Brewster, and  
DEMARCUS BREWSTER,**

the defendants herein, and persons known and unknown to the Grand Jury, did knowingly and willfully agree and conspire with each other to commit the following offenses against the United States:

- a. *Student Loan Fraud*, that is obtaining by fraud, false statement, and forgery, funds, assets and property provided and insured under subchapter IV of Chapter 28 of United States Code Title 20 and part C of subchapter I of chapter 34 of United States Code Title 42, in violation of Title 20, United States Code, Section 1097(a);
- b. *Mail Fraud*, that is, using the mails and interstate carriers to execute a scheme and artifice to defraud, in violation of Title 18, United States Code, Section 1341;
- c. *Wire Fraud*, that is, using interstate wires to execute a scheme and artifice to defraud, in violation of Title 18, United States Code, Section 1343; and
- d. *Misuse of a Social Security Number*, that is, with the intent to deceive falsely representing a number to be the social security account number assigned by the Commissioner of Social Security to him or another person for the purpose of obtaining anything of value from any person, or for any other purpose in violation of Title 42, United States Code, Section 408(a)(7).

**C. Object of the Conspiracy**

10. The object of the conspiracy was for the defendants, **DUNCAN** and **BREWSTER**, to achieve a common goal, that is: to profit from falsely and fraudulently applying for and obtaining federally funded student loans by generating student loan refund checks to which they were not entitled.

**D. Manner and Means**

11. It was part of the conspiracy that **DUNCAN** and **BREWSTER** agreed that **DUNCAN** would use **BREWSTER'S** pedigree information and SSN for the purpose of falsely and fraudulently applying for federally funded student loans in order to generate student loan refund checks.

**DUNCAN** and **BREWSTER** agreed to cash the student loan refund checks and split the proceeds.

12. It was part of the conspiracy that **DUNCAN** falsely and fraudulently caused the Missouri Department of Revenue to issue to **DUNCAN** an authentic Non-Driver Licenses and Driver Licenses which contained **DUNCAN'S** photograph and **BREWSTER'S** pedigree information.

13. It was part of the conspiracy that **DUNCAN** submitted or caused to be submitted online FAFSAs to DOE using **BREWSTER'S** identity and SSN.

14. It was part of the conspiracy that **DUNCAN** falsely and fraudulently submitted an application for enrollment and was enrolled as a student at Jefferson College using **BREWSTER'S** pedigree information and SSN. **DUNCAN**, using the assumed identity of **BREWSTER**, thereafter established himself as a student and attended classes, obtained student housing, obtained on-campus employment, and participated in a school play.

15. It was part of the conspiracy that **DUNCAN** would and did falsely and fraudulently cause the DOE to issue federally funded student loans and grants to **DUNCAN** and **BREWSTER** and Jefferson College to issue student loan refund checks to **DUNCAN** and **BREWSTER** based on the false information provided on the FAFSA and admissions application. **DUNCAN** was in default on student loans he obtained while enrolled at other colleges and was ineligible to receive any federal student aid as a student at Jefferson College.

16. It was part of the conspiracy that **DUNCAN** did cause Jefferson College to mail student loan refund checks made payable to "Demarcus Brewster" to **DUNCAN** via the United States Postal Service.

17. It was part of the conspiracy that **DUNCAN** and **BREWSTER** received fraudulent funds from student loan refund checks via a variety of means, including, but not limited to, cashing student aid credit balance refund checks at Eagle Bank and Trust of Jefferson County.

18. It was part of the conspiracy that **DUNCAN** falsely and fraudulently obtained on-campus employment at Jefferson College using **BREWSTER'S** pedigree information and SSN. **DUNCAN** completed an application which included copies of a Department of the Treasury-Internal Revenue Service Form W-4 and a Missouri Department of Revenue MO W-4 "Employee's Withholding Allowance Certificate" for 2013 using **BREWSTER'S** pedigree information. **DUNCAN** also falsely and fraudulently submitted **BREWSTER'S** pedigree

information and SSN to the Missouri Department of Health and Senior Services for a criminal background check and at Total Access Urgent Care in Rock Hill, Missouri relative to an employment-related drug test and medical examination. **DUNCAN** authorized Jefferson College to deliver several paychecks to him via direct deposit to a Higher One bank account controlled by **DUNCAN**, in the name of "B.B."

19. It was part of the conspiracy that **DUNCAN** used **BREWSTER'S** pedigree information and SSN to falsely and fraudulently obtain student housing at Jefferson College.

20. It was part of the conspiracy that **DUNCAN'S** false and fraudulent enrollment at Jefferson College and submission of false and fraudulent information to the DOE resulted in the DOE disbursing to **DUNCAN** approximately \$14,909.00 in student loans and grants under the Direct Loan Programs and the Pell Grant Program during the time period of the conspiracy.

21. It was part of the conspiracy that **DUNCAN** and **BREWSTER** have not made any payments on any of the student loans issued to them.

**E. Overt Acts**

22. In furtherance of and to effect the objects of the conspiracy, one or more of the co-conspirators committed and caused to be committed one or more of the following overt acts in the Eastern District of Missouri and elsewhere:

23. On or about May 13, 2013, **DUNCAN** submitted or caused to be submitted an online FAFSA to DOE using **BREWSTER'S** identity and SSN.

24. On or about March 5, 2013, **DUNCAN** falsely and fraudulently obtained from the Department of Revenue a Missouri Driver License which contained a photo of **DUNCAN** and the pedigree information of **BREWSTER**.

25. On or about May 13, 2013, falsely and fraudulently obtained from the Department of Revenue a Missouri Driver License which contained a photo of **DUNCAN** and the pedigree information of **BREWSTER**.



26. On or about July 24, 2013, **DUNCAN** falsely and fraudulently submitted an application for enrollment at Jefferson College for the Fall 2013 semester using **BREWSTER'S** pedigree information and SSN.

27. On or about July 30, 2013, **DUNCAN** falsely and fraudulently completed his application for financial aid by submitting to the Jefferson College Student Financial Services Office a "2013-2014 Unusual Enrollment History Review" form bearing the pedigree information of **BREWSTER**.

28. On or about August 21, 2013, **DUNCAN**, by his false and fraudulent completion of the financial aid application process, caused Jefferson College to mail to **DUNCAN** via the United States Postal Service a "Financial Aid Award Notification" advising **DUNCAN** that he was eligible to receive a total federal aid package of \$15,005.00.

29. On or about September 14, 2013, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process, caused the DOE to deliver Pell grant funds in the amount of \$2,823.00 via electronic funds transfer to a bank account controlled by Jefferson College.

30. On or about September 16, 2013, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process, caused Jefferson College to issue **DUNCAN** a student loan refund check, number 382182, in the amount of \$1,012.53 and to mail the check to "Demarcus Brewster" via the United States Postal Service.

31. On or about September 18, 2013, student loan refund check number 382182 was fraudulently cashed at Eagle Bank, Hillsboro, Missouri.

32. On or about September 19, 2013, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process,

caused the DOE to deliver Federal Subsidized Loan funds in the amount of \$1,732.00 via electronic funds transfer to a bank account controlled by Jefferson College.

33. On or about September 19, 2013, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process, caused the DOE to deliver Federal Direct Unsubsidized Loan funds in the amount of \$2,900.00 via electronic funds transfer to a bank account controlled by Jefferson College.

34. On or about September 19, 2013, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process, caused Jefferson College to issue **DUNCAN** a student loan refund check, number 383946, in the amount of \$4,632.00 and mail the check to "Demarcus Brewster" via the United States Postal Service.

35. On or about September 23, 2013, student loan refund check number 383946, in the amount of \$4,632.00 was fraudulently cashed.

36. On or about November 18, 2013, **DUNCAN** caused Jefferson College to return \$750.00 via electronic funds transfer to the DOE because **DUNCAN** did not complete his classes.

37. On or about December 9, 2013, **DUNCAN** falsely and fraudulently submitted an application for on-campus employment and obtained said employment using **BREWSTER'S** pedigree information and SSN.

38. On or about December 9, 2013, **DUNCAN** falsely and fraudulently submitted to an employment-related background conducted by the Missouri Department of Health and Senior Services using **BREWSTER'S** pedigree information and SSN.

39. On or about December 10, 2013, **DUNCAN** obtained an employment-related medical examination at Total Access Urgent Care in Rock Hill, Missouri using **BREWSTER'S** pedigree information and SSN; and an authentic Missouri Driver License which falsely and fraudulently contained **DUNCAN'S** photograph but **BREWSTER'S** pedigree information.



40. On or about January 27, 2014, **DUNCAN** used **BREWSTER'S** pedigree information and SSN to apply for student housing at Jefferson College.

41. On or about January 31, 2014, **DUNCAN**, by his false and fraudulent on-campus employment, caused Jefferson College Payroll to direct deposit his paycheck via electronic funds transfer to a bank account controlled by **DUNCAN** at Higher One, in the name of "B.B.", Account Number \*\*\*\*\*03.

42. On or about February 8, 2014, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and completion of the financial aid application process, caused the DOE to deliver Pell Grant funds in the amount of \$2,822.00 via electronic funds transfer to a bank account controlled by Jefferson College.

43. On or about February 10, 2014, **DUNCAN** made a payment at the Jefferson College Cashier's Office with a fraudulent Higher One cashier's check, bearing check number 60281, in the amount of \$1,950.00.

44. On or about February 12, 2014, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process, caused Jefferson College to issue **DUNCAN** a student loan refund check, number 388602, in the amount of \$1,268.00 and mail the check to "Demarcus Brewster" via the United States Postal Service.

45. On or about February 13, 2014, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process, caused the DOE to deliver Federal Direct Subsidized Loan funds in the amount of \$1,732.00 via electronic funds transfer to a bank account controlled by Jefferson College.

46. On or about February 13, 2014, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process,

caused the DOE to deliver Federal Direct Unsubsidized Loan funds in the amount of \$2,900.00 via electronic funds transfer to a bank account controlled by Jefferson College.

47. On or about February 13, 2014, student loan refund check number 388602 in the amount of \$1,268.00 was fraudulently cashed.

48. On or about February 24, 2014, **DUNCAN**, by his false and fraudulent enrollment in Jefferson College and false and fraudulent completion of the financial aid application process, caused Jefferson College to issue **DUNCAN** a student loan refund check, number 391198, in the amount of \$2,652.00 and to mail the check to "Demarcus Brewster" via the United States Postal Service.

49. On or about February 26, 2014, student loan refund check number 391198 was fraudulently cashed at Eagle Bank, Hillsboro, Missouri.

50. On or about April 2, 2014, **DUNCAN** submitted or caused to be submitted an online FAFSA to DOE using **BREWSTER'S** identity and SSN.

All in violation of and punishable under Title 18, United States Code, Section 371.

A TRUE BILL.

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FOREPERSON

RICHARD G. CALLAHAN  
United States Attorney

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JENNIFER J. ROY, #47203MO  
Assistant United States Attorney